

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA,)
)
V.) CRIMINAL NO. 3:14-CR-00012
)
ROBERT F. MCDONNELL) JUDGE JAMES R. SPENCER
MAUREEN G. MCDONNELL)

**DEFENDANT ROBERT F. MCDONNELL'S MOTION # 4 – MOTION FOR
CLARIFICATION
MEMORANDUM IN SUPPORT**

Defendant Robert F. McDonnell, by and through undersigned counsel, respectfully requests clarification of the conditions on Mr. McDonnell's bail. At Mr. McDonnell's initial appearance before United States Magistrate Judge Novak on January 24, 2014, Judge Novak ordered the release of both defendants on their own recognizance awaiting trial. In ordering that release, Judge Novak imposed the following additional condition: "The only additional condition I'm going to place on the defendants is this: You are to have no contact with any witnesses or representatives of the government." (Jan. 24, 2014 Initial App. Tran. at 6.)

As the Government's indictment makes clear, this case involves the alleged conduct of the defendants, their immediate families, and many of their close personal friends. Because many of Mr. McDonnell's family members and close friends are potentially involved in this case, they are all potential witnesses. And read literally, the Magistrate's Order could be interpreted as prohibiting Mr. McDonnell from having any contact with his children, his sisters, his oldest friends, and people who have worked for and with him for years. Because Judge Novak explained that the Court was "doing this for [the defendants'] own good so that nobody argues there is any type of obstruction of justice going on," *id.*, the defense does not believe that

the Court intended to impose such a broad prohibition.

The defense therefore requests clarification. Specifically, the defense requests that the Court clarify that this condition does not apply to family, close friends, and longstanding business associates who might be defense witnesses in the case, but rather applies only to people who are exclusively “witnesses . . . of the government,” *id.*, whom the Government specifically identifies to defense counsel, as well as to “representatives of the government,” *id.*

The defense conferred with counsel to the Government about this issue following Friday’s hearing. Based on that discussion, the defense’s understanding is that the Government does not oppose a condition that permits Mr. McDonnell to have contact with family and close friends, so long as he does not obstruct justice.

Dated: January 28, 2014

Respectfully submitted,

/s/ John L. Brownlee

John L. Brownlee (VSB No. 35378)
Timothy J. Taylor (VSB No. 84529)
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, DC 20006
Telephone: (202) 828-1854
Facsimile: (202) 955-5564
Email: john.brownlee@hklaw.com

Henry W. Asbill (*pro hac vice*)
James M. Burnham (*pro hac vice*)
Jones Day
51 Louisiana Avenue, N.W.
Washington, DC 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700
Email: hasbill@jonesday.com

Counsel for Robert F. McDonnell

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 2014, I electronically filed the foregoing motion and the accompanying memorandum with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Michael S. Dry
David V. Harbach II
Jessica D. Aber
Ryan S. Faulconer
United States Attorney's Office
600 E. Main Street, Suite 1800
Richmond, Virginia 23219-2447
Phone: (804) 819-5400
Facsimile: (804) 771-2316
Email: michael.s.dry@usdoj.gov

Dated: January 28, 2014

Respectfully submitted,

/s/ John L. Brownlee
John L. Brownlee (VSB No. 35378)
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, DC 20006
Telephone: (202) 828-1854
Facsimile: (202) 955-5564
Email: john.brownlee@hklaw.com

Counsel for Robert F. McDonnell